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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 20

Application Number: 09/411,730
Filing Date: 10/01/99
Appellant(s): Kramer, Dennis A.

Theodre W. Olds
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 01/21/2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The

Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is incorrect.

Claims 1-5, 7-8 and 10-18, are rejected under 35 U.S.C. 102(e) as being anticipated by Doyle et al. (US Patent number 5,850,188),

Claims 6, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doyle et al. (US Patent number 5,850,188) in view of Ostermann et al. (US Patent number 5,798,576) or Wallace (US Patent 5,684,337), and

Claims 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doyle et al. (US Patent number 5,850,188) in view of Traub (US Patent number 6,265,878 B1).

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is contains a lot of details. Therefore, the Examiner would like to state the Summary of Invention. A method of actuating electrical

components of a vehicle for performing diagnostic analysis on the electrical components includes relaying a signal from a remote transmitter to a receiver aboard a vehicle, and actuating electrical components on the vehicle in response to the signal from the transmitter.

In addition, a vehicle operator can use the remote transmitter to perform diagnostic analysis on the electrical components while alone in the field. This allows the operator to verify the electrical components such as, brake lights are functioning properly without obtaining the assistance from another person.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's grouping of claims is correct.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,850,188	Doyle et al.	12-1998
5,798,576	Ostermann et al.	08-1998
5,684,337	Wallace	11-1997
6,265,878	Traub	10-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-5, 7-8 and 10-18, are rejected under 35 U.S.C. 102(e) as being anticipated by Doyle et al. (US Patent number 5,850,188).

Regarding claims 1, 10 and 15, Doyle et al. disclose a method of actuating electrical components of a vehicle for performing diagnostic analysis on the electrical components [Fig. 1;

Fig. 3 (84; column 1: lines 61-66; column 2: lines 60-64; column 5: lines 3-15], said method comprising:

relaying a signal from a remote transmitter [Fig. 1 (18) to a receiver aboard a vehicle [Fig. 1 (12); column 3: lines 46-49];

actuating a plurality of electrical components on the vehicle in response to the signal from the transmitter [Fig. 1; column 2: lines 56-67; column 4: lines 19-30; column 5: lines 9-11].

Visually inspecting the actuation of said plurality of electrical components from the location of said remote transmitter [column 2: lines 56-67].

Regarding claim 2, Doyle et al. disclose including the step of performing diagnostic analysis upon the plurality of electrical components on the vehicle [Fig. 1; column 2: lines 56-60; column 4: lines 33-35] while actuating the electrical components with the remote transmitter [Fig. 1; column 4: lines 19-30; column 5: lines 9-11].

Regarding claim 3, Doyle et al. disclose wherein said step of relaying a signal from the remote transmitter is further defined by transmitting a radio frequency signal from a remote transmitter to a vehicle receiver [column 3: lines 5-7; column 5: lines 3-15].

Regarding claim 4, Doyle et al. disclose including the step of relaying the signal received by the receiver to an electronic control device located aboard the vehicle [Fig. 1; column 3: lines 46-49].

Regarding claims 5, 10, 17 and 18, Doyle et al. disclose wherein said step of actuating the electrical components is further defined by directing the electronic components [Fig. 1; column 4: lines 47-54; column 4: lines 59-64; Fig. 2]. Doyle et al. disclose the essential elements of the claimed invention. Doyle et al. do not explicitly disclose an actuation cycle programmed into the electronic control device. Doyle et al. disclose that the diagnostic is performed in a programming means [Fig. 2], which inherent and believed that it is done by running the program to cycle through all the components.

Regarding claims 7, 8, 13 and 14, Doyle et al. disclose wherein said step of relaying a signal from the remote transmitter is further defined by transmitting a radio frequency signal [column 3: lines 5-13; column 4: lines 6-18] from a remote transmitter to a keyless entry receiver [FIG. 1; column 2: lines 24-27; column 5: lines 16-22].

Regarding claim 11, Doyle et al. disclose said step of programming the electronic control device is further defined by entering a temporary program into the electronic control device for actuating the electrical components [Fig. 2].

Regarding claim 12, Doyle et al. disclose wherein said steps of transmitting a signal, and performing diagnostic analysis are executed by a single operator [Fig. 2].

3. Claims 6, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doyle et al. (US Patent number 5,850,188) in view of Ostermann et al. (US Patent number 5,798,576) or Wallace (US Patent 5,684,337).

Regarding claims 6, 9 and 16, Doyle et al. disclose the essential elements of the claimed invention. However, Doyle et al. do not explicitly disclose of wiring the receiver or wiring the keyless entry receiver to the electrical components for by-passing the electronic control device for directly signaling the electrical components. Ostermann et al. or Wallace disclose of wiring the receiver to the electrical components for by-passing the electronic control device for directly signaling the electrical components [(Ostermann et al. [Fig. 1 (10)]); (or Wallace [Fig. 1 (c))]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of Doyle et al. by including of wiring the receiver or wiring the keyless entry receiver to the electrical components for by-passing the electronic control device for directly signaling the electrical components. The skilled artisan would have been motivated to modify Doyle et al. as above for the purpose of performing diagnostics on the vehicle.

Claims 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doyle et al. (US Patent number 5,850,188) in view of Traub (US Patent number 6,265,878 B1).

Regarding claims 19, 20 and 21 Doyle et al. disclose the essential elements of the claimed invention. However, Doyle et al. do not explicitly disclose the testing brakes and at least some lights. Traub disclose testing include brakes and at least some lights [FIG. 1; column 1: lines 7-8]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of Doyle et al. by including testing brakes and at least some lights. The skilled artisan would have been motivated to modify Doyle et al. as above for the purpose of performing diagnostics on the brakes and lights of a vehicle.

(11) Response to Argument

4. Appellant's arguments filed 02/21/02 have been fully considered but they are not persuasive.

1) Regarding claim 15, appellant argues that "Doyle et al. does not send any signal to actuate a plurality of vehicle components for diagnostic purposes". The examiner respectfully disagrees, because as mentioned above that Doyle does send signal to actuate the vehicle components, see Fig. 1 (18), column 3, lines 46-49.

2) Appellant argues that "Doyle discloses diagnostics information with regard to the transmitter, not components on the vehicle and actuates nothing for diagnostic purposes". The examiner respectfully disagrees, because, Doyle in column 1, lines 61-66; column 2, lines 60-64;

column 5, lines 3-15, disclose that diagnostics to the components, gathered by the key fob, and then it is send to the receiver unit.

3) Regarding claim 16, appellant argues that " Doyle, et al. does not actuate any components, and thus there would be no reason for bypassing the electronic devices and directly signaling any components". The examiner respectfully disagrees, because Doyle et al. does actuate the vehicle components in response to the signal from the transmitter [Fig. 1; column 2: lines 56-67; column 4: lines 19-30; column 5: lines 9-11].

4) Regarding claim 16, appellant argues that "Nothing would be gained by any modification of Doyle which could arguably be suggested by Ostermann, et al. or Wallace that would relate at all to this function. No "bypass" would benefit Doyle, et al.'s diagnostic report". The examiner respectfully disagrees, because, Doyle, Ostermann, et al. and Wallace are all related to actuating a component on a vehicle, so as mentioned in the office action documented in the second Final Rejection mailed on 10/12/2001, section 7. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of Doyle et al. by including wiring the receiver or wiring the keyless entry receiver to the electrical components for by-passing the electronic control device for directly signaling the electrical components. The skilled artisan would have been motivated to modify Doyle et al. as above for the purpose of performing diagnostics on the vehicle [Fig. 1 (10)]; or Wallace [Fig. 1 (c)].

5) Regarding claim 17, appellant argues that " Doyle et al. do not actuate any component, but rather reports on the status of the key fob. Certainly, nothing could be done that allows "selected ones" or "request particular ones" of the electrical components to be actuated. Simply, Doyle et al. cannot meet this claim". The examiner respectfully disagrees, because as mention above in item number 3, that Doyle et al. does actuate the vehicle components in response to the signal from the transmitter Doyle et al. [Fig. 1; column 2: lines 56-67; column 4: lines 19-30; column 5: lines 9-11].

6) Regarding claim 18, appellant argues that " Doyle et al. does not actuate any components, and certainly does not actuate components through a cycle". The examiner respectfully disagrees, because, looking at Doyle's Fig. 2, the routine that is discussed in detail, shows that components are actuated through a cycle. See second Final Rejection mailed on 10/12/2001, section 6, where it was discussed that Doyle is performing the diagnostics in a programming means (Fig. 2).

7) Regarding claim 19, the examiner believes that the appellant meant claim 21, see page 9, appellant argues that " Doyle et al. does not teach one how to test brake light, nor proper combination of Traub, with Doyle overcome this failing,... and Doyle cannot fairly combined with Traub. to meet this claim". The examiner respectfully disagrees, because, Doyle and Traub are solving similar problem which is to actuate the vehicle components in response to the signal and

hence find out the status of that component, Traub discloses more features such as testing the brake and lights, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of Doyle et al. by including testing brakes and at least some lights. The skilled artisan would have been motivated to modify Doyle et al. as above for the purpose of performing diagnostics on the brakes and lights of a vehicle.

8) Regarding claims 1-4, 7 and 8, appellant argues that " the rejection of these claim is improper for the same reasons the rejection of claim 15, and with the additional reason that these are method claims and the cases cited by the examiner would be even less applicable". The examiner respectfully disagrees, because claim 15 is an apparatus claim which utilizes the same structural elements as in method claims 1-9 and 16 as discussed above. Therefore, claim 15 is rejected under the same rational.

9) Regarding claims 6 and 9, appellant argues that "these claims are however, ultimately depend to claim 1. These claims are allowable for the reasons set forth above with regard to both claims 1 and 16". The examiner respectfully disagrees. This issue has been discussed above in item number 4. Therefore, they are rejected under the same rational.

10) Regarding claim 19, appellant argues that " claim 19 is rejected over the combination of Doyle and Traub., similar to 21, and is are allowable for the reasons set forth above with regard

to both claims 1 and 21". The examiner respectfully disagrees. This issue has been discussed above in item number 7. Therefore, claim 19 is rejected under the same rational.

11) Regarding claim 10, appellant argues that " it similar to claim 18. Further, the claim is allowable for the reasons set forth above with regard to both claim 1". The examiner respectfully disagrees. Claims 10-14 are method claims which utilize the same structural elements as in the method claims 1-9 and 16 as discussed above. Therefore, claim 10 is rejected under the same rational.

12) Regarding claim 11, appellant argues that " the step requires the step of entering a temporary program into an electronic device, and Doyle does not take the steps required by the temporary program". The examiner respectfully disagrees. This issue has been discussed above in item number 6. Therefore, claim 11 is rejected under the same rational.

13) Regarding claim 20, appellant argues that "this claim depends from claim 10 and is allowable for the reasons set forth above with regard to both claim 10". The examiner respectfully disagrees. This issue has been discussed above in item number 7. Therefore, claim 20 is rejected under the same rational.

(12) Summary

in summary, the central theme of the Appellants brief appears to be indicated by the three issues for appeal that they have identified on page 5. We believe that we have made the case that answers to the four questions.

(13) Appeal Conference

An appeal conference was held on April 11, 2002, with the conferees being Mr. Art Grimley, N. Le and Wasseem Hamdan.

(14) Submission

Respectfully submitted to the Honorable Board of Patent Appeals and Interferences,

N. LE, SPE AU 2858

Mr. ARTHUR GRIMLEY, SPE AU 2852

WASSEEM HAMDAN, Examiner, AU 2858

April 16, 2002